

(C) any other information which the Secretary determines to be in the public interest.

(2)(A) Any information provided to the Secretary under subsection (a) shall be treated as a trade secret or confidential information subject to section 552(b)(4) of title 5 and shall not be revealed, except as provided in paragraph (1), to any person other than those authorized by the Secretary in carrying out their official duties under this section.

(B) Subparagraph (A) does not authorize the withholding of information provided under subsection (a) of this section from any duly authorized subcommittee or committee of the Congress. If a subcommittee or committee of the Congress requests the Secretary to provide it such information, the Secretary shall make the information available to the subcommittee or committee and shall, at the same time, notify in writing the person who provided the information of such request.

(C) The Secretary shall establish written procedures to assure the confidentiality of information provided under subsection (a) of this section. Such procedures shall include the designation of a duly authorized agent to serve as custodian of such information. The agent—

(i) shall take physical possession of the information and, when not in use by any person authorized to have access to such information, shall store it in a locked cabinet or file; and

(ii) shall maintain a complete record of any person who inspects or uses the information.

Such procedures shall require that any person permitted access to the information shall be instructed in writing not to disclose the information to anyone who is not entitled to have access to the information.

(Pub. L. 99-252, § 4, Feb. 27, 1986, 100 Stat. 32.)

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Subsec. (a) effective one year after Feb. 27, 1986, and subsec. (b) effective Feb. 27, 1986, see section 11 of Pub. L. 99-252, set out as a note under section 4401 of this title.

### § 4404. Enforcement, regulations, and construction

#### (a) Enforcement

(1) A violation of section 4402 of this title or the regulations promulgated pursuant to this chapter shall be considered a violation of section 45 of this title.

(2) Any person who is found to violate any provision of section 4402 or 4403(a) of this title shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than \$10,000.

#### (b) Regulations under section 4402 of this title

(1) Regulations issued by the Federal Trade Commission under section 4402 of this title shall be issued in accordance with section 553 of title 5.

(2) Not later than 180 days after February 27, 1986, the Federal Trade Commission shall promulgate such regulations as it may require to implement section 4402 of this title.

#### (c) Construction

Nothing in this chapter (other than the requirements of sections 4402 and 4403 of this title) shall be construed to limit, restrict, or expand the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of smokeless tobacco products.

(Pub. L. 99-252, § 5, Feb. 27, 1986, 100 Stat. 33.)

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Subsecs. (a) and (c) effective one year after Feb. 27, 1986, see section 11(a) of Pub. L. 99-252, set out as a note under section 4401 of this title.

### § 4405. Injunctions

The several district courts of the United States are vested with jurisdiction, for cause shown, to prevent and restrain violations of sections 4402 and 4403 of this title upon application of the Federal Trade Commission in the case of a violation of section 4402 of this title or upon application of the Attorney General of the United States acting through the several United States attorneys in their several districts in the case of a violation of section 4402 or 4403 of this title.

(Pub. L. 99-252, § 6, Feb. 27, 1986, 100 Stat. 33.)

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective one year after Feb. 27, 1986, see section 11(a) of Pub. L. 99-252, set out as a note under section 4401 of this title.

### § 4406. Preemption

#### (a) Federal action

Except as provided in the Family Smoking Prevention and Tobacco Control Act (and the amendments made by that Act), no statement relating to the use of smokeless tobacco products and health, other than the statements required by section 4402 of this title, shall be required by any Federal agency to appear on any package or in any advertisement (unless the advertisement is an outdoor billboard advertisement) of a smokeless tobacco product.

#### (b) State and local action

No statement relating to the use of smokeless tobacco products and health, other than the statements required by section 4402 of this title, shall be required by any State or local statute or regulation to be included on any package or in any advertisement (unless the advertisement is an outdoor billboard advertisement) of a smokeless tobacco product.

#### (c) Effect on liability law

Nothing in this chapter shall relieve any person from liability at common law or under State statutory law to any other person.

(Pub. L. 99-252, § 7, Feb. 27, 1986, 100 Stat. 34; Pub. L. 111-31, div. A, title II, § 205(b), June 22, 2009, 123 Stat. 1849.)

**Editorial Notes**

## REFERENCES IN TEXT

The Family Smoking Prevention and Tobacco Control Act, referred to in subsec. (a), is div. A of Pub. L. 111-31, June 22, 2009, 123 Stat. 1776. For complete classification of this Act to the Code, see Short Title of 2009 Amendment note set out under section 301 of Title 21, Food and Drugs, and Tables.

## AMENDMENTS

2009—Subsec. (a). Pub. L. 111-31 substituted “Except as provided in the Family Smoking Prevention and Tobacco Control Act (and the amendments made by that Act), no” for “No”.

**§ 4407. Omitted****Editorial Notes**

## CODIFICATION

Section, Pub. L. 99-252, § 8, Feb. 27, 1986, 100 Stat. 34, which required the Secretary of Health and Human Services and the Federal Trade Commission to transmit biennial reports to Congress on smokeless tobacco products, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, pages 95 and 173 of House Document No. 103-7.

**§ 4408. Definitions**

For purposes of this chapter:

(1) The term “smokeless tobacco” has the meaning given such term by section 387(18) of title 21.

(2) The term “commerce” means (A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island and any place outside thereof; (B) commerce between points in any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island, but through any place outside thereof; or (C) commerce wholly within the District of Columbia, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island.

(3) The term “United States”, when used in a geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and installations of the Armed Forces.

(4) The term “package” means a pack, box, carton, pouch, or container of any kind in which smokeless tobacco products are offered for sale, sold, or otherwise distributed to consumers.

(5) The term “sale or distribution” includes sampling or any other distribution not for sale.

(6) The term “Secretary” means the Secretary of Health and Human Services.

(Pub. L. 99-252, § 9, Feb. 27, 1986, 100 Stat. 34; Pub. L. 111-31, div. A, title I, § 101(c), June 22, 2009, 123 Stat. 1830.)

**Editorial Notes**

## AMENDMENTS

2009—Par. (1). Pub. L. 111-31 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The term ‘smokeless tobacco’ means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.”

**CHAPTER 71—PETROLEUM OVERCHARGE  
DISTRIBUTION AND RESTITUTION**

Sec.	
4501.	Restitutionary amounts covered.
4502.	Identification and disbursement of restitutionary amounts.
4503.	Deposit of remainder of excess amount into Treasury as indirect restitution.
4504.	Statute of limitation.
4505.	Reports.
4506.	Termination.
4507.	Definitions.

**§ 4501. Restitutionary amounts covered****(a) In general**

This chapter (other than section 4504 of this title)—

(1) specifies the procedure for the disbursement of funds collected, including interest thereon, by the Secretary or the courts pursuant to the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 751 et seq.] or the Economic Stabilization Act of 1970 (and the regulations issued thereunder) as restitution for actual or alleged violations of such Acts or regulations; and

(2) subject to subsection (c), applies to—

(A) any amount of such funds held in escrow by the Secretary through accounts administered by the Secretary of the Treasury on or after October 21, 1986; and

(B) any amount of such funds determined at any time, pursuant to judicial or administrative proceedings (including any settlement agreement or declaratory judgment) instituted by the Secretary to enforce such Acts and regulations, to be amounts paid for such actual or alleged violations, including any such amounts held in escrow by any court.

**(b) Special rule**

Amounts described in subsection (a)(2) and held in an escrow account by a court before October 21, 1986, may continue to be held by such court but shall be disbursed, together with any interest thereon, by the Secretary or, as appropriate, by the court only in accordance with the provisions of this chapter.

**(c) Exclusions**

Subsection (a)(2) does not apply to—

(1) any amount actually disbursed before October 21, 1986, to any person or class of persons pursuant to section 155 of Public Law 97-377 or any final judicial or administrative order or judgment (including any settlement agreement or declaratory judgment);

(2) any amount to which any person or class of persons has an enforceable right, created or vested, or governed by the terms and conditions of the settlement approved on July 7, 1986, in *In Re: the Department of Energy*